

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ALLERGAN USA, INC. and)	
ALLERGAN INDUSTRIE SAS,)	
)	
Plaintiffs,)	
)	
v.)	Civ. No. 20-0104-CFC
)	
PROLLENium US INC. and)	
PROLLENium MEDICAL)	
TECHNOLOGIES INC.,)	
)	
Defendants.)	

ORDER

Whereas, Defendants moved to stay this action and a related action (Civ. Action No. 19-126-CFC) pending resolution of the *Inter Partes* Review (IPR) petitions instituted by the Patent Trial and Appeal Board (PTAB) on six patents asserted in the related action (D.I. 14);

Whereas those six patents are related to the patents asserted in this action;

Whereas, on May 20, 2020, the Court granted the motion with respect to the related action for the reasons stated by the Court during the teleconference held on that date;

Whereas, the Court denied the motion with respect to this action but stated that if Defendants agreed to forego their inequitable conduct counterclaims and

defenses and filed an IPR petition for the patents asserted in this case the Court would entertain a renewed motion to stay;

Whereas, on June 2, 2020, Defendants filed with the PTAB IPR petitions that challenge all claims of the two patents asserted in this case (the June IPRs);

Whereas Defendants have filed a renewed motion to stay pending resolution of the June IPRs (D.I. 30);

Whereas Defendants have stated that they will forgo their inequitable conduct counterclaims and defenses in this action and the related action if the Court grants their renewed motion to stay, D.I. 30 at 5; and

Whereas the Court finds that for the reasons stated during the May 20, 2020 teleconference and in light of Defendants' filing of IPR petitions for the patents asserted in this case and Defendants' willingness to forgo their inequitable conduct counterclaims and defenses in both actions, good cause exists to stay this case pending the resolution of those IPR petitions;

Now therefore, in Wilmington this Sixteenth day of July in 2020, IT IS HEREBY ORDERED that

1. Defendants renewed motion to stay (D.I. 30) is GRANTED;
2. This action is STAYED pending final resolution of the IPR petitions filed by Defendants on June 2, 2020;

3. Defendants shall file within seven days proposed orders in this action and Civil Action No. 19-126-CFC dismissing their inequitable conduct defenses and counterclaims without prejudice; and
4. Defendants are barred from asserting inequitable conduct defenses and counterclaims in this action and Civil Action No. 19-126-CFC.


United States District Judge